Appl. No. 09/498,398
Amdt. dated November 18, 2004
Preliminary Amendment

PATENT

REMARKS/ARGUMENTS

Amendments

The claims are modified in the amendment. More specifically, claims 26, 43 and 44 have been amended and new claims 47 and 48 have been added. Therefore, claims 13-21 and 26-48 are present for examination. Applicant reserves the right to pursue any canceled claims in a continuing application without any prejudicial effect. No new matter is added by these amendments, which are fully supported by the specification. Applicant respectfully requests reconsideration of this application as amended.

35 U.S.C. §103 Rejection, Shlomot et al. in view of Shepard

The final Office Action has rejected claims 20 and 26-46 under 35 U.S.C. §103(a) as being unpatentable over the cited portions of U.S. Patent No. 5,699,481 to Shlomot et al. (hereinafter "Shlomot") in view of the cited portions of U.S. Patent No. 5,943,347 to Shepard (hereinafter "Shepard"). The amended claims make express the implicit relationship of frame size in the sound signal. Applicants believe that neither Shepard nor Shlomot teach or suggest the ability to vary the frame sized in the played sound signal when correcting errors. More specifically, the expanded portion of the sound signal can dynamically change to a frame size different from a frame size associated with another signal frame. New claims 47 and 48 further accentuate this difference.

In the Shepard and Shlomot references, each received frame always corresponds to a played frame and has the same frame size. That is to say that a played frame, regardless of size, is always derived from a single received frame in both references such that there is no dynamic ability to change frame size. Shepard does not have the ability to dynamically change packet or frame size in the played signal such that you could have a smaller frame between two full-size frames. Shepard teaches correcting packets to replace or repair them such that you always achieve a uniform packet and frame size. Shepard, col. 4, lines 16-21. To assure consistent packet size, Shepard goes to great length in providing calculations on how to patch missing information by replicating the pitch period different numbers of times based upon the frequency and amount of missing information. Shepard, col. 4, lines 26-50.

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Additionally, Shlomot cannot be relied upon for teaching the limitation in question. Shlomot never takes a varying portion of the received signal to produce the played signal. Shlomot always takes a single received frame when producing a played frame. Accordingly, Shlomot cannot be relied upon to teach or suggest dynamic frame sizes in the played sound signal.
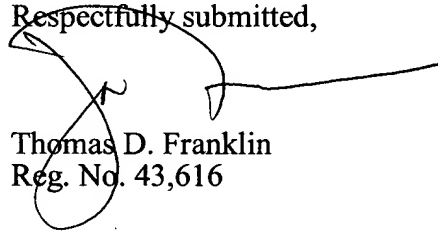
Reconsideration of the rejection is respectfully requested

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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